**THE HONOURABLE SRI DEVINDER GUPTA**
**THE CHIEF JUSTICE**
**AND**
**THE HONOURABLE Ms. JUSTICE**
**G.ROHINI**

**WRIT APPEAL No. 765 OF 2004.**

**ORAL JUDGMENT**: (per The Hon'ble the Chief Justice, Sri Devinder Gupta)

The Collector, Hyderabad, has filed this Writ Appeal questioning the order of learned Single Judge, dated: 29.1.2004 in Writ Petition No. 9608 of 2003 allowing the Writ Petition of the first respondent.

Respondent No.1, in the Writ Petition, has prayed for issuance of Mandamus against the appellant for issuance of No Objection Certificate in respect of premises bearing No. 8-2-309/B/1, situated at Road No.14, Banjara Hills, Hyderabad, without insisting upon the clearance from the Urban Land Ceiling Authorities, with further direction to the Municipal Corporation of Hyderabad, to grant permission for construction without insisting upon No Objection Certificate from the Collector.

Writ Petition of the first respondent was contested by the appellant saying that the insistence of Clearance from the Urban Land Ceiling Authority is justified on the basis of the decision of a Division Bench of this Court in **Government of A.P. v. Sree Pancha Murthy Co-operative House Building Society Limited, Hyderabad**[1]**.**

Learned Single Judge noticing the fact that insistence of No Objection Certificate was sought to be justified on the basis of the decision of the Division Bench in **Sree Pancha Murthy Co-operative House Building Society Limited, Hyderabad** (1 supra), made a

reference to the decision of a learned Single Judge in **Hyderabad Potteries v. District Collector, Hyderabad**[2], and, held that the Municipal Corporation of Hyderabad is under obligation to consider the application of the first respondent without insisting upon No Objection Certificate and that insistence by the appellant of submission of Clearance Certificate from the Urban Land Ceiling Authority was superfluous.

In case, the appellant had, in the counter affidavit, justified his stand on the basis of the decision of Division Bench of this Court, at least, judicial propriety demanded a reason from the learned Single Judge to ignore such decision of the Division Bench, and, then proceed to dispose of the matter on the basis of the decision of the learned Single Judge.

Learned counsel for the appellant, has, in the appeal, also justified his action on the basis of another decision of the Supreme Court in **Government of A.P. v. J.Sreedevi and others**[3].

Since learned Single Judge has failed to examine the matter in detail, there is no option for us, except, to allow the Appeal and set aside the impugned order, with a direction to hear and dispose of the Writ Petition afresh, in accordance with law, after taking note of the stand of the appellant. Writ Appeal stands allowed. No costs.

Parties to appear before the learned Single Judge on 28.6.2004.

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DEVINDER GUPTA, C.J.

14.6.2004.

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G.ROHINI, J.

VR.

[1] 2002 (5) ALD 433 (DB)

[2] 2001 (3) ALD 600

[3] 2002 (4) ALD 38 (SC)